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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

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11 AMERICAN DIAGNOSTIC MEDICINE,
INC.,

12 Plaintiff,

13 v.

14 ROBERT WALDER,
15 PAUL KAPLAN, and
DOES 1 through 100, Inclusive,

16 Defendants.
17

Case No. 07cv2401 W (CAB)

JUDGE: Hon. Thomas J. Whelan
CTRM: 7

DEFENDANT ROBERT WALDER'S *EX*
***PARTE* APPLICATION FOR AN**
EXTENSION OF TIME TO FILE
RESPONSIVE PLEADING

18 Defendant ROBERT WALDER ("Walder") hereby applies to the Court *ex parte* for an
19 Order extending the time to file a responsive pleading to the Complaint. The undersigned counsel
20 has advised counsel for Plaintiff and Co-defendant Kaplan that such an *ex parte* request will be
21 made to this Court. Counsel for plaintiff has indicated no opposition thereto. Counsel for Kaplan
22 has not responded to the message regarding the *ex parte* application as of the time of the filing of
23 this application. Additionally, Defendant Walder will electronically serve Plaintiff and Co-
24 Defendant Kaplan pursuant to Chamber Rules. *See* Declaration of Liseanne Kelly filed in support
25 of this *ex parte* application.

26 Defendant has not sought or obtained any previous extensions of time. Currently,
27 Defendant Walder's responsive pleading is due Friday, January 25, 2008. Such an extension,
28 pursuant to FRCP 6(b), is timely and is necessary to allow additional time to prepare a responsive

pleading for the following reasons:

1. Defendant Walder has requested from Plaintiff an extension of time to respond to the Complaint as settlement discussions have been ongoing; however, Plaintiff refused to voluntarily grant such an extension.

2. Attorney Micah Parzen who has been representing Defendant Walder began a one-month paternity leave on Friday, January 18.

3. The firm of Luce Forward was retained on Tuesday, January 22, to handle the pending litigation and was previously only retained to engage in settlement discussions.

4. The responsive pleading will likely include an Answer as well as a counter claim. Defendant Walder needs additional time to research the basis for and prepare such responsive pleadings and is hopeful that such pleadings should not be necessary in the event his response to Plaintiff's settlement proposal concludes this matter.

Defendant respectfully requests that the Court grant Defendant Walder an additional twenty (20) days by which to file a responsive pleading.

DATED: January 22, 2008

Respectfully submitted,

LUCE, FORWARD, HAMILTON & SCRIPPS LLP

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